

Part III

Administrative, Procedural, and Miscellaneous

26 C.F.R. 702.9037-2T: Payments from the Presidential Primary Matching Payment Account (temporary).

Rev. Proc. 2008-15

SECTION 1. PURPOSE

This revenue procedure provides procedures under § 9037 of the Internal Revenue Code (26 U.S.C. § 9037 (2000)) and § 702.9037 of the Financing of Presidential Election Campaigns Regulations (26 C.F.R. § 702.9037 (2007)) for making payments from the Presidential Primary Matching Payment Account (Primary Account). Under these procedures the Treasury Secretary (Treasury) will make payments of amounts due to primary candidates at least once a week if funds are available in the Primary Account. These payments will start during the first week of January of an election year and will continue through the end of September of the year following the presidential election. This revenue procedure also provides procedures for determining amounts paid to candidates when the balance in the Primary Account is not sufficient to pay all amounts certified by the Federal Election Commission (Commission). When the Primary Account is in shortfall, the Treasury will make payments pro rata from the

Primary Account based on the amounts certified by the Commission for each candidate adjusted for the length of time between the Treasury's receipt of the certifications and the Treasury's making payments on the certifications (see Sequencing Adjustment, as defined in section 3.05 of this revenue procedure).

SECTION 2. BACKGROUND

.01 Section 6096(a) permits individuals (other than nonresident aliens) whose income tax liability for the taxable year is \$3 or more to designate that \$3 be paid to the Presidential Election Campaign Fund (Fund) in accordance with the provisions of § 9006(a).

.02 Section 9006(a) establishes the Fund and provides that the Treasury will transfer to the Fund, from time to time, an amount not in excess of the sums designated by individual taxpayers under § 6096.

.03 Under § 9037(a), the Treasury is to maintain the Primary Account within the Fund and will deposit amounts into the Primary Account from the Fund after determining that there are sufficient amounts available in the Fund to make payments described in § 9006 (payments for the general election) and § 9008 (payments for nomination conventions). The Primary Account contains amounts for Presidential primary candidates who are certified for payments by the Commission.

.04 Section 9037(b) specifies that the Treasury should pay certified primary candidates promptly.

.05 Notice 96-13, 1996-1 C.B. 366, indicated that payment procedures would be provided for payments from the Primary Account when the balance in

the Primary Account is not sufficient to pay all amounts certified by the Commission. The Notice states that when the Primary Account is in shortfall, the Treasury may make an additional payment between regular payment dates, promptly after funds become available.

.06 Notice 2007-96, 2007-49 I.R.B. 1091, superseded Notice 96-13 and announced that the Treasury intends to change the procedures for making payments from the Primary Account.

.07 Section 702.9037-2T(a) of the temporary Financing of Presidential Election Campaigns Regulations provides that, pursuant to § 9036, the Commission will certify to the Treasury the full amount of payment to which a candidate is entitled under § 9034. The Treasury will pay promptly, but not before the beginning of a Presidential election year, the amounts certified by the Commission from the Primary Account to the candidate.

.08 Section 702.9037-2T(b) provides that the Internal Revenue Service may provide additional rules and procedures for the Primary Account.

.09 This revenue procedure provides additional rules and procedures for making payments from the Primary Account.

SECTION 3. DEFINITIONS

.01 Payment Date. A day on which the Treasury makes payments to candidates from the Primary Account.

.02 Candidate's Actual Shortfall. The difference, if any, between the amounts certified by the Commission for a candidate in certifications received by the Treasury as of one day prior to the Payment Date, and the amount of

payments previously received by the candidate on such certifications as of the Payment Date, without taking into account the Sequencing Adjustment.

.03 Candidate's Adjusted Shortfall. The sum of a Candidate's Actual Shortfall plus the Sequencing Adjustment.

.04 Aggregate Adjusted Shortfall. The sum of all Candidates' Adjusted Shortfalls on a Payment Date.

.05 Sequencing Adjustment. A factor used to compute a candidate's share of pro rata payments when the Primary Account is in shortfall. The Sequencing Adjustment is computed at the noncorporate overpayment rate specified under § 6621 starting with the day the Treasury receives certification from the Commission that the candidate is entitled to receive an amount of payment and ending on the Payment Date.

SECTION 4. PAYMENT PROCEDURES

.01 Timing of payments.

(a) Weekly payments. The Treasury will make payments due to primary candidates at least once a week, to the extent funds are available in the Primary Account. Payments will be based on (1) certifications which the Treasury has received from the Commission, but not paid, as of one day prior to a Payment Date, and (2) the balance in the Primary Account, as of one day prior to a Payment Date.

(b) Payment period. The payments described in section 4.01(a) of this revenue procedure will commence during the first week of January of an

election year and will continue through the end of September of the year following the presidential election.

.02 Amount of payment.

(a) No shortfall. If the amounts certified by the Commission in certifications received by the Treasury as of one day prior to a Payment Date do not exceed the balance in the Primary Account on a Payment Date, the Treasury will pay the certified amounts to the candidates.

(b) Shortfall. If the amounts certified by the Commission in certifications received by the Treasury as of one day prior to a Payment Date exceed the balance in the Primary Account on a Payment Date, the amount paid to a candidate is determined by multiplying the Candidate's Adjusted Shortfall (as defined in section 3.03 of this revenue procedure) by the ratio of the balance in the Primary Account as of one day prior to the Payment Date over the Aggregate Adjusted Shortfall (as defined in section 3.04 of this revenue procedure).

(c) Limitation. In no event will the Treasury pay to a candidate more than the amounts certified by the Commission for the candidate in certifications received by the Treasury from the Commission.

.03 Allocation of payments. Payments described in section 4.02(b) of this revenue procedure will be allocated among the amounts certified by the Commission for a candidate based on the sequence in which the Treasury received certifications from the Commission. For example, if the Treasury receives on January 29, 2008, a certification from the Commission for a payment of \$100 to a candidate and receives on February 26, 2008, a certification for a

payment of \$70 to the same candidate, and the Treasury makes a payment of \$60 to that candidate pursuant to section 4.02(b) of this revenue procedure, that payment is allocated to the certification the Treasury received on January 29, 2008. In determining the Candidate's Adjusted Shortfall for the next payment, the Treasury will be considered to have received on January 29, 2008, a certification for a payment of \$40 to the candidate, and to have received on February 26, 2008, a certification for a payment of \$70 to the candidate.

SECTION 5. NOTIFICATION

The Treasury will notify the Commission of the amount paid to each candidate and the balance remaining in the Primary Account after making disbursements from the Primary Account. The Treasury will also notify the Commission if funds are not available in a week to make the payments to candidates described in section 4.02 of this revenue procedure.

SECTION 6. RETURN OF FUNDS

Any amounts in the Primary Account on October 31 of the year following a presidential election will be returned to the Fund for use in the next presidential election.

SECTION 7. EFFECTIVE DATE

This revenue procedure provides procedures for payments from the Primary Account in or after 2008. See Notice 96-13 for rules for payments made to candidates when the Primary Account was in shortfall from February 2, 1996, through 2007.

DRAFTING INFORMATION

The principal author of this revenue procedure is Karla M. Meola of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information concerning this revenue procedure, please contact Ms. Meola at (202) 622-4930 (not a toll-free call).